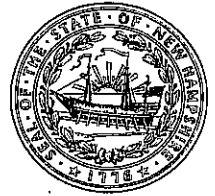




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 5, 2009

The Honorable Judith T. Spang, Chairman
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 537-FN, relative to penalties for oil spills

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 537-FN, relative to penalties for oils spills. The Department of Environmental Services supports this bill.

The amendments proposed in HB 537-FN would increase and clarify the penalties available for oil spills. Specifically, the amendments would clarify that criminal penalties could attach to actions that are taken recklessly (*i.e.*, without regard to potential consequences), in addition to attaching to actions that are taken knowingly (*i.e.*, with knowledge of the potential consequences). The amendments also would cause the civil penalty applicable to violations of rules adopted under the statute to be the same as that applicable to violations of the statute. Under RSA 541-A:22, II, rules are valid and binding on persons they affect, and have the force of law unless amended or revised or unless a court of competent jurisdiction determines otherwise. It thus is appropriate to have the same civil penalties apply to violations of rules and violations of statute.

Thank you again for the opportunity to comment in support of this bill. If you have any questions, please call me at 271-3449 or Gretchen Hamel, Legal Unit Administrator, at 271-3137.

Sincerely,

Thomas S. Burack
Commissioner

cc: Representative Kappler
Representative C. Christensen
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau